

### § 1651.3

(i) As a death benefit to the joint life annuitant if he or she survives the participant; or

(ii) As a death benefit in accordance with paragraph (a) of this section if the joint life annuitant does not survive the participant.

(4) If the participant requested a joint life annuity with a cash refund or 10-year certain feature, the TSP will pay the funds:

(i) As a death benefit to the joint life annuitant if he or she survives the participant;

(ii) As a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of Form TSP-70 or Form TSP-U-70, if the joint life annuitant does not survive the participant; or

(iii) As a death benefit in accordance with paragraph (a) of this section if neither the joint life annuitant nor any designated beneficiary survives the participant.

(5) If a participant dies after an annuity has been purchased, the annuity vendor will make or stop the payments in accordance with the annuity method selected.

(c) *TSP loans.* If the TSP processes a notice that a participant has died, any pending loan disbursement will be cancelled and the funds designated for the loan will be distributed as a death benefit in accordance with paragraph (a) of this section. If a TSP loan has been disbursed, but the check has not been negotiated (or an electronic funds transfer (EFT) has been returned), the loan proceeds will be used to pay off the loan. If the loan check has been negotiated (or the EFT has been processed), the funds cannot be returned to the TSP and the TSP will declare the loan balance as a taxable distribution in accordance with 5 CFR 1655.15.

(d) *Investment of a TSP account upon notice of death.* If a participant dies with any portion of his or her TSP account in an investment fund other than the G Fund, the TSP will transfer the entire account into the G Fund after it processes a notice that the participant has died, or a death code indicating the participant's death from the participant's agency or service. The account will accrue earnings at the G Fund rate

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in accordance with 5 CFR part 1645 until it is paid under this part.

[68 FR 35509, June 13, 2003]

#### § 1651.3 Designation of beneficiary.

(a) *Filing requirements.* In order to designate a beneficiary of a TSP account, the participant must complete and file Form TSP-3, Designation of Beneficiary, unless Form TSP-11-B is used for this purpose. All Forms TSP-3 and TSP-11-B signed on or after January 1, 1995, must be received by the TSP record keeper on or before the participant's date of death. If the Form TSP-3 was received and accepted by the participant's employing agency before January 1, 1995, the TSP record keeper will process it and determine its validity when it is received from the employing agency. A valid Form TSP-3 remains in effect until it is properly canceled or changed as described in § 1651.4.

(b) *Eligible beneficiaries.* Any individual, firm, corporation, or legal entity, including the U.S. Government, may be designated as a beneficiary. Any number of beneficiaries can be named to share the death benefit. A beneficiary may be designated without the knowledge or consent of the beneficiary or the knowledge or consent of the participant's spouse.

(c) *Validity requirements.* In order to be valid, a Form TSP-3 must be signed by the participant in the presence of two witnesses, or the participant must acknowledge his or her signature on the Form TSP-3 in the presence of two witnesses. A witness must be age 21 or older, and a witness designated as a beneficiary on the Form TSP-3 will not be entitled to receive a death benefit payment. If a witness is the only named beneficiary, the Form TSP-3 is invalid. If more than one beneficiary is named, the share of the witness beneficiary will be allocated among the remaining beneficiaries *pro rata*.

(d) *Will.* A will, or any document other than Form TSP-3 or Form TSP-11-B, may not be used to designate a beneficiary(ies) of a TSP account.

#### § 1651.4 Change or cancellation of a designation of beneficiary.

(a) *Change.* In order to change a designation of beneficiary, the participant

must properly complete a new Form TSP-3, which must be received by the TSP record keeper on or before the date of death of the participant under the same rules as set forth in § 1651.3(a). The TSP record keeper will honor the Form TSP-3 with the latest date signed by the participant which is otherwise valid under the rules set forth in § 1651.3. A change of beneficiary may be made at any time and without the knowledge or consent of the participant's spouse or any current or prior designated beneficiaries.

(b) *Cancellation.* A participant may cancel all prior designations of beneficiaries by sending the TSP record keeper either a new valid Form TSP-3 or a letter, signed and dated by the participant and witnessed in the same manner as a Form TSP-3, stating that all prior designations are canceled. In order to be effective, either of these documents must be received by the TSP record keeper on or before the date of death of the participant in accordance with the rules set forth in § 1651.3(a). The filing of either of these documents will cancel all earlier designations.

(c) *Will.* A will, or any document other than Form TSP-3 or Form TSP-11-B, may not be used to change or cancel a beneficiary(ies) of a TSP account.

#### § 1651.5 Spouse of the participant.

For purposes of payment under § 1651.2(a)(2), the spouse of the participant is the person to whom the participant was married on the date of death. A person is considered to be married even if the parties are separated, unless a court decree of divorce or annulment has been entered. State law of the participant's domicile will be used to determine whether the participant was married at the time of death.

[62 FR 32429, June 13, 1997, as amended at 67 FR 49527, July 30, 2002]

#### § 1651.6 Child or children.

If the account is to be paid to the child or children, or to descendants of deceased children by representation, as provided in § 1651.2(a)(3), the following rules apply:

(a) *Child.* A child includes a natural or adopted child of the deceased participant.

(b) *Descendants of deceased children.* "By representation" means that, if a child of the participant dies before the participant, all descendants of the deceased child at the same level will equally divide the deceased child's share of the participant's account.

(c) *Adoption by another.* A natural child of a TSP participant who has been adopted by someone other than the participant during the participant's lifetime will not be considered the child of the participant, unless the adopting parent is the spouse of the TSP participant.

#### § 1651.7 Parent or parents.

If the account is to be paid to the participant's parent or parents under § 1651.2(a)(4), the following rules apply:

(a) *Amount.* If both parents are alive at the time of the participant's death, each parent will be separately paid fifty percent of the account. If only one parent is alive at the time of the participant's death, he or she will receive the entire account balance.

(b) *Step-parent.* A step-parent is not considered a parent unless the step-parent adopted the participant.

#### § 1651.8 Participant's estate.

If the account is to be paid to the duly appointed executor or administrator of the participant's estate under § 1651.2(a)(5), the following rules apply:

(a) *Appointment by court.* The executor or administrator must provide documentation of court appointment.

(b) *Appointment by operation of law.* If state law provides procedures for handling small estates, the Board will accept the person authorized to dispose of the assets of the deceased participant under those procedures as a duly appointed executor or administrator. Documentation which demonstrates that the person is properly authorized under state law must be submitted to the TSP record keeper.

#### § 1651.9 Participant's next of kin.

If the account is to be paid to the participant's next of kin under